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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,735	05/23/2001	Naishin Seki	JA9-2000-0085 (8728-516)	9928
46069	7590	08/11/2005	EXAMINER	
F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797			O'CONNOR, GERALD J	
			ART UNIT	PAPER NUMBER

3627

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/863,735

Applicant(s)

Seki et al.

Examiner

O'Connor

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on May 27, 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-8, and 10-19 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-3, 5-8, and 10-19 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 27, 2005 has been entered.

### ***Preliminary Remarks***

2. PLEASE TAKE NOTICE that, due to an extended absence of the original examiner, this application has been permanently transferred to another examiner in the same art unit for its continued prosecution.

3. This Office action responds to the amendment and arguments filed by applicant on May 27, 2005 in reply to the Office action mailed February 24, 2005.

4. The amendment of claims 1, 5, 10, 11, 13, 14, and 16, cancellation of claims 4 and 9, and addition of claims 17-19 by applicant, in the reply filed May 27, 2005, are hereby acknowledged.

***Election/Restriction***

5. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 1-3 and 5-8, drawn to a data processing system comprising a point-of-sale terminal with inventory monitoring, classified in class 705, subclass 22.
  - II. Claim 10, drawn to a system for computer graphics operator interface processing (e.g., graphical user interface) comprising an on-screen workspace or object, classified in class 345, subclass 764.
  - III. Claims 11-13, drawn to a method of electrical communication by means of network signaling, classified in class 340, subclass 286.02.
  - IV. Claims 14 and 15, drawn to an electrical computer or data processing system comprising an arrangement for high level application control, classified in class 719, subclass 320.
  - V. Claim 16, drawn to an electrical computer or data processing system memory comprising an arrangement for access and control of a dynamic storage device, classified in class 711, subclass 111.
  - VI. Claims 17 and 18, drawn to a system comprising an automated financial, business, or management practice or arrangement for electronic shopping (e.g., remote ordering), classified in class 705, subclass 26.
  - VII. Claim 19, drawn to a method of business or management comprising generic or non-electrical computing, classified in class 705, subclass 500.

6. The inventions are distinct, each from the other because of the following reasons:

Inventions III and VII are each related to each of Inventions I, II, and IV-VI, as process and apparatus for its practice. The inventions are distinct if it can be shown that *either*: (1) the process as claimed can be practiced by another, materially different apparatus, or by hand, *or* (2) the apparatus as claimed can be used to practice another, materially different process. (MPEP § 806.05(e)). In this case, the processes as claimed can be practiced by another, materially different apparatus, or by hand, such as by manually using a mere ordinary telephone.

Inventions I, II, and IV-VI are all related to each other as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In this case, Inventions I and VI have separate utility from Invention II, such as for use by a non-GUI client, and from Inventions IV and V, such as for use without a storage medium; Invention II has separate utility from Inventions I and IV-VI, such as browsing of websites selling statically priced merchandise; Inventions IV and V have separate utility from Inventions I, II, and VI, such as for paperweights; Invention I has separate utility from Invention VI, such as for setting prices based on remaining inventory; and, Invention VI has separate utility from Invention I, such as for setting prices based on fluctuating market prices. See MPEP § 806.05(d).

Invention V is related to Invention IV as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, *and* (2) that the

subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In this case, the combination as claimed does not require the particulars of the subcombination as claimed, because a system in accordance with Invention V need not include any program. The subcombination has separate utility by itself (i.e., without any transmission means).

Inventions III and VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In this case, Invention III has separate utility from Invention VII, such as for setting prices based on remaining inventory; and, Invention VII has separate utility from Invention III, such as for setting prices based on fluctuating market prices. See MPEP § 806.05(d).

7. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

8. A telephone call was placed to Mr. Koon Hon Wong (Reg. No. 48,459), attorney for applicant, on August 5, 2005, to discuss an oral election to the above restriction requirement, but the call did not result in an election being made.

9. Applicant is advised that the reply to this requirement, to be complete, *must* include an election of the invention to be examined, even if the requirement be traversed (37 CFR 1.143).

***Conclusion***

10. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is **(571) 272-6787**, and whose facsimile number is **(571) 273-6787**.

The examiner can normally be reached weekdays from 9:30 to 6:00.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Mr. Alexander Kalinowski, can be reached at **(571) 272-6771**.

Official replies to this Office action may be submitted by any *one* of fax, mail, or hand delivery. **Faxed replies are preferred and should be directed to (571) 273-8300**. Mailed replies should be addressed to "Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450." Hand delivered replies should be delivered to the "Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314."

GJOC

August 5, 2005



Gerald J. O'Connor  
Primary Examiner  
Group Art Unit 3627